

III. REMARKS

Claims 21-40 are currently pending in this application. No claims have been amended, and no claims have been cancelled herein. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 21 and 26- 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Young (US Pat. No. 6,015,072, hereinafter, “Young”) in view of Roh (US Pat. No. 6,283,347, hereinafter, “Roh”).

With respect to claim 21, Applicants respectfully submit that Young and Roh fail to teach each and every element of the claimed invention, and accordingly traverse the rejection. For example, Applicants submit that Young fails to teach a backpack including the claimed feature of “a bottom opening pocket attached to an exterior side of the large pocket,” (claim 21, lines 7-8), as the Office asserts in the current Action (*see* p. 2). Instead, Applicants submit that Young teaches a backpack 16 including a lower portion 12. This lower portion 12 includes openings fastened by zippers 80 and 84. However, as is very clearly illustrated in FIG. 5, the openings of lower portion 12 are located on an exterior side and along the top edge of lower portion 12 when the backpack is oriented “in an upright position.” Therefore, these pockets cannot possibly teach the feature of a bottom opening pocket, which would require that the opening be on the bottom of lower portion 12, rather than near its upper edge, as depicted. Further, there is nothing in the balance of Young at FIGS. 1-4 or the accompanying text to indicate or suggest the presence or utility of a bottom opening pocket.

Applicants further submit that Young fails to teach the feature of “a bottom opening pocket” (claim 21, line 7) including “an opening at a bottom of the holding area when the backpack is in the upright position” (*id.*, line 12-13). In addition to the arguments presented

above, Applicants submit that Young teaches a top- or side-opening pocket located on the lower portion of the backpack, including an opening at the top and side of the holding area, e.g., lower portion 12, which are fastened using zippers 80 and 84. This feature contrasts with the “opening at the bottom of the holding area” of claim 21. Applicants respectfully submit that the Young reference is devoid of any teaching of an opening located on the bottom panel of the pack.

Applicants also submit that Young fails to teach the feature of “a bottom opening pocket” (claim 21, line 7), including “a bottom flap for covering the opening, the bottom flap permanently affixed to at least one of: the outer side, the left side, or the right side and extending therefrom during opening” (claim 21, lines 14-16). As discussed above, Young does not teach a bottom opening pocket of any kind. Applicants further submit that the pockets taught by Young, side- and top-opening as they are, do not include any type of “flap for covering the opening” whatsoever. Instead, Young teaches pockets which are fastened shut using zippers 80 and 84, which draw the sides of the opening together. These zippers are used in lieu of a flap covering the opening. FIG. 5 illustrates this feature, showing that flaps are clearly not contemplated for covering Young’s zipper fasteners, nor would such flaps be relevant to Young.

Applicants further submit that Roh fails to cure the defects in the rejection left by Young. In the Office Action, the Office relies on Roh (at FIG. 1) to teach the feature of “the bottom flap permanently affixed to at least one of: the outer side, the left side, or the right side and extending therefrom during opening” (claim 21, lines 14-16). Applicants submit that Roh’s flap 316, “an opaque panel 316 on the top and rear to provide protection from sun exposure,” (col. 5, lines 51-52) not only fails to disclose a “bottom flap,” as it covers the top, rather than the bottom of the pack, but also fails to render such a bottom flap obvious. Not only is Roh’s flap 316 located specifically on the top rather than the bottom of the pack, but it does not, as the Office asserts,

“allow the pocket to be easily accessed from certain angles” (Office Action, p. 3). Roh’s flap 316 is necessary in order to place a child in the pack and remove him from the pack via the top of the pack, but it does not necessarily allow access from a plurality of angles. Even if it did, however, Applicants assert that one having ordinary skill in the art would not be motivated to combine the teachings of Young with those of Roh. As asserted above, Young teaches pockets which are fastened using zippers. Those zippers draw the pockets closed, and accordingly render the use of a flap to cover the opening both unnecessary and irrelevant. Therefore, Applicants submit that one would not be motivated to use the teachings of Roh to modify those of Young.

Additionally, Applicants submit that Roh fails to teach the features discussed above that are not taught by Young, including “a bottom opening pocket,” including “an opening at a bottom of the holding area” and “a bottom flap for covering the opening.” Accordingly, in view of the deficiencies in Young and Roh, Applicants respectfully submit that the references fail to teach each and every feature of the claimed invention, and request withdrawal of the rejection of claim 21.

In the Office Action, dependent claims 22-25 are rejected under 35 U.S.C. § 103(a). Claims 22-23 are rejected as being unpatentable over Young in view of Roh, and further in view of Rohrbach (US Pat. No. D426951, hereinafter, “Rohrbach”); and claims 24-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Young in view of Roh, and further in view of Lewis (US Pat. No. 5,060,314, hereinafter, “Lewis”). Claims 26-29 are also rejected as being unpatentable over Young in view of Roh as mentioned *infra* at page 1. Applicants respectfully submit that claims 22-29 are allowable for reasons stated above relative to independent claim 21, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) to claims 22-29.

In the Office Action, claims 30-32 and 34-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis (US Pat. No. 3,105,359) in view of Roh, and further in view of Rohrbach.

With respect to claim 30, Applicants respectfully submit that Ellis, Roh, and Rohrbach fail to teach each and every element of the claimed invention, and accordingly traverse the rejection. For example, Applicants submit that Ellis fails to teach “a pocket configured to be located adjacent to the back of an individual during use,” comprising in relevant part, “a left side and a right side that form a substantially rectangular holding area” (claim 30, lines 1 and 6). Ellis teaches at FIG. 1 (cited in the Office Action) a pouch 24 which is “adapted to adjustably receive an air lung 26 such as used by skin divers therein.” (Col. 2, lines 1-3.) As is evident in the figure, Ellis’ pouch 24, which the Office posits is analogous to the pocket of claim 30, is substantially cylindrical in shape, rather than rectangular, as in the invention of claim 30. As admitted in the Office Action, Ellis further fails to teach the feature of “the bottom flap permanently affixed to at least one of: the outer side, the left side, or the right side and extending therefrom during opening.” (Claim 30, lines 10-11.)

Applicants further submit that Ellis fails to teach the feature of “means for releasably attaching the bottom flap ... such that the individual can open the bottom flap by pulling in a downward manner with one hand while the pocket is adjacent to the back” (claim 30, lines 12-14), as nothing in the reference indicates that the air lung contemplated by Ellis could be removed by the wearer of the vest while the individual is wearing the vest, keeping the pocket “adjacent to the back.” Accordingly, Ellis fails to teach the invention of claim 30 including each of the features recited therein.

Applicants further submit that Roh fails to cure the defects in the rejection left by Ellis. As discussed above relative to claim 21, Roh fails to teach the feature of “the bottom flap permanently affixed to at least one of: the outer side, the left side, or the right side and extending therefrom during opening” (claim 30, lines 10-11), as Roh fails to teach a bottom flap of any kind. Even if Roh did disclose this feature, however, Applicants assert that one having ordinary skill in the art would not be motivated to combine the teachings of Ellis with those of Roh. As asserted above, Ellis teaches a vertically oriented, cylindrical pouch to be located adjacent to the back of an individual, however, Ellis’s pouch relies on “an enlarged portion 42” of belt 18 to provide a seat for the air lung (Col. 2, lines 70-72), rather than an actual bottom flap, permanently affixed or otherwise. Belt 18 as well as belt 20 are configured such that “the air lung 26 may be adjusted vertically through adjustment of the straps 18 and 20.” (Col. 2, lines 64-65.) Accordingly, Applicants submit that the teachings of Roh, which include flap permanently affixed, and therefore not vertically adjustable, to the top of the baby carrier, would not be relevant to the adjustable strap technology of Ellis. Accordingly, Applicants submit that one would not be motivated to combine the two.

Applicants further submit that Rohrbach fails to teach the features not taught by Roh and Ellis, as discussed above. The Office relies on Rohrbach (FIGS. 2-3) for the feature of “a means for adjusting a horizontal area of a backpack with an adjustable strap and buckle on either side of a pocket.” Applicants respectfully submit that it is not clear from these figures that the strap and buckle depicted provide horizontal adjustability of a horizontal area that includes a pocket. Applicants respectfully request clarification regarding this reference.

Applicants submit, however, that regardless of interpretation of Rohrbach, the sum total of Ellis, Rohr, and Rohrbach fails to disclose each and every feature of the invention of claim 30,

including, *inter alia*, the features of “a substantially rectangular holding area” (line 6), “an opening at a bottom of the holding area when the pocket is in the upright position” (line 9), and “a bottom flap for covering the opening, the bottom flap permanently affixed to at least one of: the outer side, the left side, or the right side and extending therefrom during opening” (lines 10-11). Accordingly, Applicants respectfully request withdrawal of the rejection to claim 30.

With respect to dependent claims 31-32 and 34-36, Applicants respectfully submit that claims 31-32 and 34-36 are allowable for reasons stated above relative to independent claim 30, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) to claims 31-32 and 34-36.

In the Office Action, claims 37, 38, and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Roh, and further in view of Wakamatsu (JP 2002-159317A, hereinafter, “Wakamatsu”).

With respect to claim 37, Applicants respectfully submit that Ellis, Roh, and Wakamatsu fail to teach each and every element of the claimed invention, and accordingly traverse the rejection. For example, as discussed above with respect to claim 30, Applicants submit that Ellis fails to teach “a bottom opening pocket” (claim 37, line 3) including, among other features, “a left side and a right side that form a substantially rectangular holding area” (*id.*, line 7). As discussed above, Ellis instead teaches a vertically oriented, substantially cylindrical pouch. As further discussed relative to claim 30, neither Roh nor a combination of Ellis with Roh teaches the feature of “a bottom flap for covering the opening, the bottom flap permanently affixed to at least one of: the outer side, the left side, or the right side and extending therefrom during opening” (claim 37, lines 11-13).

Applicants further submit that Wakamatsu fails to render the invention of claim 37 obvious in view of the teachings and deficiencies of Ellis and Roh. As discussed above, Ellis and Roh fail to teach each and every element of the claimed invention. Wakamatsu fails to compensate for the deficiencies of those references, as the Office only relies on Wakamatsu for the use of the bottom opening pocket of claim 37 included in a wheelchair. Although Wakamatsu teaches the use of a top opening pocket used in conjunction with a wheelchair (FIG. 2), Applicants respectfully submit that Wakamatsu fails to teach a bottom opening pocket of any kind, or a need or use for the same. Accordingly, Applicants respectfully submit that the wheelchair comprising a chair and a bottom opening pocket of claim 37 is not rendered obvious in view of the cited prior art. Because Ellis, Roh, and Wakamatsu accordingly fail to teach each and every element of the claimed invention, Applicants respectfully request the withdrawal of the rejection to claim 37 under § 103(a).

With respect to dependent claims 38 and 40, Applicants respectfully submit that claims 38 and 40 are allowable for reasons stated above relative to independent claim 37, and for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) to claims 38 and 40.

In the Office Action, claims 33 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Roh, in view of Wakamatsu, and further in view of Rohrbach. Applicants respectfully submit that claims 33 and 39 are allowable for reasons stated above relative to independent claims 30 and 37, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) to claims 33 and 39.

IV. CONCLUSION

Applicants respectfully submit that the Application as presented is in condition for allowance. Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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